Neifeld Docket No: PIP-105-PHIL

Application/Patent No: 10/067,869   USPTO CONFIRMATION NO: 6496

File/Issue Date: 2/8/2002

Inventor/title: Philips/System and Method for Using Cards for Sponsored Programs

Examiner/ArtUnit: Cheung/3694

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

<u>37 CFR 41.37 APPEAL BRIEF</u>

Sir:

In response to the final office action mailed September 25, 2007, the appellant files this appeal brief.

Table of Contents

I.   **37 CFR 41.37(c)(i) - Real Party in Interest**

The real party in interest is Catalina Marketing Corporation, a Delaware Corporation.

II.   **37 CFR 41.37(c)(ii) - Related Appeals and Interferences**

There are no related appeals or interferences.

III.   **37 CFR 41.37(c)(iii) - Status of Claims**

Claims 1-6, 8-13, and 15-20 are pending, rejected, and appealed.

IV.   **37 CFR 41.37(c)(iv) - Status of Amendments**

All amendments have been entered.

V.   **37 CFR 41.37(c)(v) - Summary of Claimed Subject Matter**

Claim 1 defines a computer implemented method comprising the steps of: storing a CID on a card (page 4 line 28 through page 5 line 2; page 6 lines 13-14; page 6 lines 19-20; page 7 lines 1-2; page 7 lines 20-21; page 8 lines 10-12; Figure 7, element 8.02; Figure 9, element 9.12); activating, in a computer system of a third party, a consumer account associated with said card (page 8 lines 18-23; Figure 7, element 8.02); providing, in said computer system of said third party, said consumer account with an initial credit (page 4 line 28 through page 5 line 2; page 6 lines 13-14; page 7 lines 20-21; page 8 lines 18-23; Figure 5, element 5.04; Figure 8, element 9.12); identifying, in a retail store computer system, said CID in a purchase transaction in a retail store associated with said retail store computer system (page 4 line 28 through page 5 line 2; page 7 lines 25-26; page 10 lines 13-21; Figure 7, element 8.14; Figure 8, element 9.04); debiting, in said retail store computer system, said consumer account by the amount of said purchase transaction (page 4 line 28 through page 5 line 2; page 7 lines 26-27; page 10 lines 13-21; page 10 lime 27 through page 11 line 4; Figure 8, element 9.06); determining, in said retail store computer system, conditions for future credits associated with said CID (page 7 lines 4-8; page 10 lines 13-21; page 10 line 27 through page 11 line 4; page 24 lines 12-13); storing, in said retail store computer system, said conditions in an account associated with said CID (page 5 lines 27-29; page 7 lines 15-18; page 10 lines 13-21; page 10 line 27 through page 11 line 9; page 24 lines 9-12; Figure 7, element 8.16; Figure 8, element 9.08); crediting, in said retail store computer system, said consumer account, when said conditions are satisfied (page 4 line 28

through page 5 line 2; page 5 lines 27-29; page 7 lines 15-18; page 10 lines 13-21; page 10 line 27 through page 11 line 4; page 11 line 28 through page 12 line 2; page 22 lines 21-27; page 24 lines 9-12; Figure 7, element 8.16); selling said card by said third party to a consumer at a card sale price (page 8 lines 6-8; page 8 lines 13-14; Figure 1A, element 40); and crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account (page 2 lines 2-5; page 5 lines 14-21; page 6 lines 7-9; page 6 lines 13-20; page 7 lines 20-29; page 8 lines 10-15).

Claim 8 defines a computer system, comprising: structure for storing a CID on a card (page 4 line 28 through page 5 line 2; page 6 lines 13-14; page 6 lines 19-20; page 7 lines 1-2; page 7 lines 20-21; page 8 lines 10-12; Figure 7, element 8.02; Figure 9, element 9.12); structure for activating, in a computer system of a third party, a consumer account associated with said card (page 8 lines 18-23; Figure 7, element 8.02); structure for providing, in said computer system of said third party, said consumer account with an initial credit (page 4 line 28 through page 5 line 2; page 6 lines 13-14; page 7 lines 20-21; page 8 lines 18-23; Figure 5, element 5.04; Figure 8, element 9.12); structure for identifying, in a retail store computer system, said CID in a purchase transaction in a retail store associated with said retail store computer system (page 4 line 28 through page 5 line 2; page 7 lines 25-26; page 10 lines 13-21; Figure 7, element 8.14; Figure 8, element 9.04); structure for debiting, in said retail store computer system, said consumer account by the amount of said purchase transaction (page 4 line 28 through page 5 line 2; page 7 lines 26-27; page 10 lines 13-21; page 10 lime 27 through page 11 line 4; Figure 8, element 9.06); structure for determining, in said retail store computer system, conditions for future credits associated with said CID (page 7 lines 4-8; page 10 lines 13-21; page 10 line 27 through page 11 line 4; page 24 lines 12-13); structure for storing, in said retail store computer system, said conditions in an account associated with said CID (page 5 lines 27-29; page 7 lines 15-18; page 10 lines 13-21; page 10 line 27 through page 11 line 9; page 24 lines 9-12; Figure 7, element 8.16; Figure 8, element 9.08); structure for crediting, in said retail store computer system, said consumer account, costs of items purchased when said conditions are satisfied (page 4 line 28 through page 5 line 2; page 5 lines 27-29; page 7 lines 15-18; page 10 lines 13-21; page 10 line 27 through page 11 line 4; page 11 line 28 through page 12 line 2; page 22 lines 21-27; page 24 lines 9-12; Figure 7, element 8.16); structure for selling said card by said third party to a consumer at a card sale price (page 8 lines 6-8; page 8 lines 13-14; Figure 1A, element 40); and structure for crediting, in said computer system of said third party, a retail store account of said

retail store by an amount less than said initial credit when said computer system of said third party activates said account (page 5 lines 14-21; page 6 lines 7-9; page 6 lines 13-20; page 7 lines 20-29; page 8 lines 10-15).

Claim 10 recites "The system of claim 8 wherein said card is one of a plurality of store cards batch activated, and means for addressing said cards to consumers' postal addresses." This is a means plus function recitation. The structure, material, or acts described in the specification as corresponding to this recitation appear at: a card that is one of a plurality of store cards batch activated, and means for addressing said cards to consumers' postal addresses (page 6 line 25 through page 7 line 1; page 20 lines 18-21; Figure 1A, element 34; Figure 5).

Claim 11 recites "The system of claim 8 further comprising means for storing product purchase history for products purchased in association with said CID." This is a means plus function recitation. The structure, material, or acts described in the specification as corresponding to this recitation appear at: a card that comprises means for storing product purchase history for products purchased in association with said CID (page 7 lines 4-15; page 16 lines 16-27; Figure 2).

VI.   37 CFR 41.37(c)(vi) - Grounds of Rejection to be Reviewed on Appeal

Whether the rejections of claims 1-6, 8-13, and 15-20 under 35 USC 112, second paragraph should be reversed.

Whether the rejections of claims 1, 3-5, 8, 10-12, 16, 17, 19, and 20 under 103(a) as being unpatentable over Walker et al (US 5,945,653) hereinafter "Walker" in view of Risafi et al (US 6,473,500) hereinafter "Risafi" should be reversed.

Whether the rejections of claims 15 and 18 under 103(a) as being unpatentable over Walker in view of Risafi, and further in view of Office Notice should be reversed.

Whether the rejections of claims 2 and 9 under 103(a) as being unpatentable over Walker in view of Risafi, and further in view of Horgan (US 2002/0022966) hereinafter "Horgan" should be reversed.

Whether the rejections of claims 6 and 12 under 103(a) as being unpatentable over Walker in view of Risafi, and further in view of Packes, Jr. et al (US 7,006,983) hereinafter "Packes" should be reversed.

VII.   **37 CFR 41.37(c)(vii) - Argument**

Arguments are presented for each of the issues in the following sections.

VIII.   **The Rejections of Claims 1-6, 8-13, and 15-20 under 35 USC 112, Second Paragraph, Should be Reversed**

From page 3 lines 10-19 in the office action mailed September 25, 2007, hereinafter "office action", the examiner states that page 8 lines 10-12 of the specification does not support the limitation in claims 1 and 8: "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account". Specifically, the examiner states at page 3 lines 14-19 [with emphasis in the original] that:

> Examiner has reviewed the sections as pointed out by the applicant, and such limitation is not shown. The cited sections merely explain that the third party sells card and the card can be activated by the third party. It is not clear <u>when</u> the third party credits the retailer the amount of money. At least, the specification does not support the limitation that crediting the retailer the amount of money <u>when the third party activates the account</u>.

A.   **The Limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account" is Not Indefinite**

In response to the examiner's assertion that "[i]t is not clear <u>when</u> the third party credits the retailer the amount of money", the appellant disagrees. The recitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account." clearly specifies that the "crediting ... when said computer system of said third party activates said account." Hence, the rejection for indefiniteness on this point is improper and should be reversed. The examiner did not make a 112, 1st paragraph rejection. However, the applicant shows herein below that such a rejection would have been improper, in order to moot that issue.

B.   **The Examiner's Assertion That the Claimed Limitation is Not Supported is Also Incorrect**

Moreover, the examiner's assertion that the specification does not support the claimed limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account." is also incorrect. (1) page 7 lines 20-27 and page 19 lines 27-28, and (2) page 20 lines 3-6 and page 24 lines 24-26 of the specification support that recitation.

Page 7 lines 20-27 read as follows:

In one computer implemented sponsored program of the invention, an account having a non-zero balance is established, activated, and associated with a CID. The computer system storing the account stores specifications of stores at which the value of the account associated with the CID is applicable to partially offset costs of a purchase transaction associated with the CID. A consumer receives a card having the CID. The consumer purchases in a specified store. The CID is read by the POS terminal in association with the purchase transaction. The POS system offsets the cost for the purchases by the amount of the initial non-zero balance in the account.

Page 19 lines 27-28 read as follows:

Central computer 30 may process information stored in the global consumer purchase history database 32, use card unit 36 to generate new cards, and control card activation.

Page 7 lines 20-27 of the specification discloses a computer system ("The computer system storing the account...") which corresponds to the claimed "computer system of said third party." (Page 19 lines 27-28 also support the computer storing limitation.)

Page 7 lines 20-27 indicates that that computer system credits and stores an account by stating that "account having a non-zero balance is established, activated, and associated with a CID. The computer system storing...." Thus, the specification supports the claimed "crediting ... an account."

Thus, page 7 lines 20-27's discloses "crediting, in said computer system of said third party, ... [an] account ".

Page 7 lines 20-27 indicates that the account is a retail store account by stating "The computer system storing the account stores *specifications of stores* at which the value of the account associated with the CID is applicable .... The *consumer purchases in a specified store.* " Since the stores in which consumers purchase, by definition, are retail stores, the "*specifications of stores* at which the value of the account associated with the CID is applicable" corresponds to the claimed " retail store account of said retail store". Thus, page 7 lines 20-27 discloses its computer system storing the claimed "retail store account of said retail store."

Thus, page 7 lines 20-27's discloses "crediting, in said computer system of said third party,a retail store account of said retail store".

Moreover, page 7 lines 20-27's discloses"an account having a non-zero balance is established, activated, ... The computer system storing the account stores ...." which supports the timing limitation of "crediting, in said computer system of said third party, ... when said computer system of said third party activates said account."

Finally, 24 lines 24-26 and page 20 lines 3-6 support the claimed amount less than an initial credit (the claimed "crediting, ... by an amount less than said initial credit....").

Page 24 lines 24-26 reads as follows:

> An FSC- Script Program method of the present invention provides a computer implemented method for accounting for a sponsor organization's purchase of script cards fiom a retailer or manufacturer *at a discounted value relative the card's account values.*

Page 20 lines 3-6 reads as follows:

> Each purchase control computer 20 and in-store control computer 10 may transmit data to the central computer 30. This data preferably includes CID records including product / purchase data, and also redemption data and *credits and debits associated with marketing programs.* [Emphasis supplied.]

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The disclosure "*at a discounted value relative the card's account values*" supports the claimed concept of " "crediting ... by an amount less than said initial credit"

The disclosure "... transmit data to the central computer 30... includes ... *credits and debits associated with marketing programs.*" supports the that "computer system of said third party" that stores the "an amount less than said initial credit".

Therefore, the specification supports the entire recitation, "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account." Accordingly, both the examiners rejection for lack of definiteness, and the examiner's assertion that the specification fails to support the subject recitation are incorrect. For all of the foregoing reasons, the examiner's rejections of claims 1-6, 8-13, and 15-20 under 35 USC 112, Second Paragraph, as being Indefinite, should be reversed.

IX. The Rejections of Claims 1, 3-5, 8, 10-12, 16, 17, 19, and 20 under 103(a) as being Unpatentable over Walker in View of Risafi Should be Reversed

The examiner rejects claims 1, 3-5, 8, 10-12, 16, 17, 19, and 20 under 103(a) as being unpatentable over Walker in view of Risafi. These rejections should be reversed for the following reasons.

A. The Rejection of Claim 1 as Obvious in view Of Walker and Risafi is Improper and Should be Reversed - Introduction

The examiner rejection is improper because (1) Walker does not teach all of the limitations alleged by the examiner, in addition to the limitation the examiner admits that Walker fails to teach and (2) Rifasi failes to suggest modifying what Walker does teach to incorporate all that Walker fails to teach, including the limitation that the examiner admits Walker fails to teach.

The examiner admits that Walker fails to teach claim 1's last step, the same step the examiner asserted the applicant failed to disclose: "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account." However, contrary to the examiner's assertions, Walker also fails to disclose claim 1's steps of "determining, in said retail store computer system, conditions for future credits associated with said CID" and "storing, in said retail store computer system, said conditions in an account associated with said CID".

B.   **Walker Fails to Disclose Claim 1's "determining, in said retail store computer system, conditions for future credits associated with said CID" and "storing, in said retail store computer system, said conditions in an account associated with said CID" Steps**

Walker discloses establishing functions to be processed during a retail transaction, such as a point of sale transaction involving a credit card. The disclosed functions are designed to affect the transaction and the transaction amount, and to generate messages to appear later on a credit card statement. Walker abstract.

Walker column 18 line 57 through column 19 line 56 describes generation of discounts and offers at the point of sale by a **credit card issuer's** data processing system. Specifically, Walker column 18 lines 57-60 discloses a retailer entering the customer's (cardholder's) function identifier into the POS terminal.

The credit card issuer's data processing system receives the function identifier and executes the function operation to affect the transaction at the POS. Walker column 18 lines 65-67; Walker column 19 lines 11-18. The credit card issuer then transmits the affected transaction amount to the POS terminal. Walker column 19 lines 31-39. See also Walker column 15 lines 39-47.

However, Walker fails to disclose a **retail computer system** determining or storing conditions for future credits. Therefore, Walker does not teach or suggest claim 1's limitations "determining, *in said retail store computer system*, conditions for future credits associated with said CID" and "storing, *in said retail store computer system*, said conditions in an account associated with said CID". The examiner does not assert that Rifasi cures these deficiencies in Walker. Therefore, the examiner has not made even a prima facie case, and therefore the rejection of claim 1 is improper and should be reversed.

C.   **Rifasi fails to Disclose the Limitation that the Examiner Admits is Lacking inWalker**

Claim 1 recites the limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account".

The examiner admits that Walker does not teach crediting, in said computer system of said third party, retail store account of said retail store by an amount less than said initial credit

when said computer system of said third party activates said account. Office action page 5 lines 4-7.

The examiner asserts that Rifasi discloses that limitation, stating that:

> Risafi teaches a third party sells shopping card to a consumer at a card sale price, and the third party activates the shopping card, and crediting a retailer by an amount less than an initial credit of the a card (column 2 lines 9-13 and column 9 lines 44-46 and column 10 lines 1-67 and column 12 line 52 through column 13 line 61. [Office action page 5 lines 7-11.]

The examiner is incorrect. Rifasi column 2 lines 9-13 and column 9 lines 44-46 and column 10 lines 1-67 and column 12 line 52 through column 13 line 61 do not disclose "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account".

Rifasi column 2 lines 9-13 is part of Rifasi's Background, and discloses prior art prepaid cards for use at a particular merchant.

Rifasi column 9 lines 44-46 discloses that different card may have different credits.

Rifasi column 10 lines 1-67 refers to a credit card, not a prepaid card associated with a retailer. Specifically, see line 58 which states that the purchases are cleardd for settlement with "the issuing bank." That is, the disclosed card is a bank or credit card, not a card associated with a retail store in which the consumer actually makes purchases. In contrast, claim 1 recites "crediting, *in said computer system of said third party, a retail store account of said retail store by an amount ....*". Rifasi column 10 lines 1-67 discloses nothing of the sort because the account it is discussing in column 10 lines 1-67 is a credit account for the consumer, not a prepaid account at one or more specified retail stores. Thus, Rifasi does not disclose that the third party computer system stores in its database in association with an account, one more more retail stores. This point is in fact clarified by Rifasi's introduction to its Detailed Description, which states that:

> In accordance with the present invention, a prepaid card is provided which is activated only when a card user purchases the card or a program sponsor *issues a card on behalf of the card user.* The card user is then able to select a PIN of his or

her choosing, and is *able to use the card at any merchant or terminal* (including different merchant terminals and automatic teller machines ("ATMs")) connected to a designated central processing center. Additionally, the card is preferably reloadable so that the same card can be used over and over again. [Emphasis supplied.]

The issuance of the card "on behalf of the card user" and that he or she can "use the card at any merchant or terminal" also indicates that there would be no reason for the third party computer to store in association with the account identities of any retail stores - - or to debit such retail store by an amount less than an initial credit.... Accordingly, Rifasi does not disclose the claimed "crediting, in said computer system of said third party, *a retail store account of said retail store ... when said computer system of said third party activates said account*".

Rifasi column 12 line 52 through column 13 line 61 disclose details of the foregoing process, which also fails to disclose or suggest association of specified retailers with the card account, upon card activation. Therefore, Rifasi fails to disclose the limitation upon which the examiner relies for the combination rejection of claim 1. Therefore, the examiner has failed to make a prima facie case.

Put another way, Risafi does not teach or suggest "crediting, in said computer system of said third party, a retail store account of **said** retail store by an amount less than said initial credit when said computer system of said third party activates said account" because Risafi discloses creating an account with funds that are redeemable at **numerous** different retail chain and stores. This is supported by the examiner's admission on page 7 lines 7-9, which states that:

> Walker modified by Risafi does not specifically teach the card is sold to a consumer as a gift card defining a right to specified credit in specified store.

Accordingly, the prior art based rejections of claim 1 should be reversed.

For the same reasons, the prior art based rejections of independent claim 8 should be reversed.

For at least the same reasons the prior art based rejections of the dependent claims should be reversed.

D.   **The Examine's Justification for Combining the Teachings of Walker and Risafi is Improper**

Moreover, the examiner's justification for combining the teachings of Walker and Risafi is improper. The examiner states that:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Walker's teaching to include the features of selling the shopping card by a third party to a consumer at a card sale price, and the third party activates the shopping card, and crediting a retailer by an amount less than an initial credit of the a card as taught by Risafi for attracting more consumers to purchase the card for shopping. [Office action page 5 lines 11-16.]

In response, the appellant asserts that the examiner's motivation to combine the teachings of Walker's credit cards and Risafi's pre-paid cards is improper because a credit card and a pre-paid card have contradictory business purposes. A credit card provides unequivocal credit. A card whose use is limited to specific retailers is a limit on such credit. No one would promote a card as a credit card and then specifically limit its use to specified retail stores. Thus, the examiner's motivation that such functional change would **"attract more consumers to purchase the card for shopping"** is not logical. Since the examiner provides no proper motivation for combination, the propose combination, even ignoring all of the other flaws noted above, would still be improper. For this additional reason, the rejections based upon combinations of Walker and Risafi should be reversed.

X.   **The Rejections of Claims 15 and 18 under 103(a) as Being Unpatentable over Walker in View of Risafi, and Further in View of Office Notice are Improper and Should be Reversed**

Claims 15 and 18 depend from claims 1 and 8 respectively. The rejections of claims 15 and 18 are improper for the same reasons noted above for claims 1 and 8. Therefore, the rejections of claims 15 and 18 are improper and should be withdrawn.

Moreover, "Office Notice" is insufficient to support a rejection.

XI.   **The Rejections of Claims 2 and 9 Under 103(a) as Being Unpatentable over Walker in View of Risafi, and Further in View of Horgan are Improper and Should be Reversed**

Claims 2 and 9 depend from claims 1 and 8, respectively, which recite the limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account".

The examiner asserts in the office action at page 7 lines 7-9 that:

> Walker modified by Risafi does not specifically teach the card is sold to a consumer as a gift card defining a right to specified credit in specified store. However, Horgan teaches this matter (paragraph 19).

Horgan paragraph 19 is part of the Horgan application's "Background of the Invention" section.   Horgan paragraph 19 states in pertinent part that:

> Gift cards are typically sold in various fixed denominations, for example twenty dollars ($20), fifty dollars ($50), or one hundred dollars ($100) by a merchant or service provider to a customer. The recipient of the gift card may use the gift card as full or partial payment to purchase goods or services with the merchant.

However, Horgan fails to disclose claim 1's limitation "crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account".

Horgan discloses "a rechargeable value payment card linked to a trust account containing one or more agglomerated virtual accounts, that may be processed by merchants in a similar manner as a conventional debit card". Horgan paragraph 6.   However, a conventional debit card is not a prepaid card associated with a retailer.

Horgan discloses **that at the time of activation** of the virtual account, a database record is associated with a trust account. Horgan paragraph 66. Horgan does not disclose an association between a retailer and the funds available in the virtual trust account **until settlement**

of a sale at the retail store. Specifi ally, Horgan paragraph 66 states that:

> The balance within the associated cardholder account is verified with the
> issuing establishment, such as a bank, at block 82 as a function of authorization.
> Payments remitted with the VAP card, are not authenticated against a checking
> account, or balance thereof, but rather are authenticated at block 82 against a
> generally anonymous virtual account that is tracked by the database of the trust
> account which may be administered by a bank, card issuer, or third party
> organization.

Accordingly, Horgan does not disclose the claimed "crediting, in said computer system of
said third party, *a retail store account of said retail store ... when said computer system of said
third party activates said account*". Therefore, Horgan cannot and does not disclose the claimed
"crediting" step.

Therefore, the rejections of claims 2 and 9 based on Walker in view of Risafi, and Horgan
should be reversed for at least the reasons applicable to claim 1.

Moreover, there is no motivation to combine Walker's credit card with Horgan's "virtual
account that exists as a data entity within a trust account" (Horgan abstract). This is for the same
reason as presented above that there is no motivation to combine Walker with Risafi. For this
additional reason, the rejections of claims 2 and 9 are improper and should be reversed.

XII. **The Rejections of claims 6 and 12 Under 103(a) as being Unpatentable over Walker**
     in View of Risafi, and Further in View of Packes are Improper and Should be
     Reversed

Claims 6 and 12 recite the limitation "said criteria are transmitted from a manufacturer to
a central computer storing product purchase history data associated with CIDs from a plurality of
retail stores and retail store companies".

The examiner admits in the office action at page 7 lines 16-19 that:

> Walker modified by Risafi does not specifically teach said criteria are
> transmitted from a manufacturer to a central computer storing product purchase
> history data associated with CIDs from a plurality of retail stores and retail store

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companies.

In response, the appellant asserts that as discussed above, Walker and Rifasi fail to make a prima facie case of obviousness agains independent claims 1 and 8. For the same reasons, the rejections of dependent claims 6 and 12 should be reversed.

XIII. **37 CFR 41.37(c)(viii) - Claims Appendix**

A claims appendix is Appendix 1.

XIV. **37 CFR 41.37(c)(ix) - Evidence Appendix**

An evidence appendix is Appendix 2.

XV. **37 CFR 41.37(c)(x) - Related Proceedings Appendix**

A related proceedings appendix is Appendix 3.

	Respectfully Submitted,
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Printed: January 25, 2008 (12:28pm)

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APPENDIX 1 - CLAIMS APPENDIX OF APPEALED CLAIMS

1.   A computer implemented method comprising the steps of:

storing a CID on a card;

activating, in a computer system of a third party, a consumer account associated with said card;

providing, in said computer system of said third party, said consumer account with an initial credit;

identifying, in a retail store computer system, said CID in a purchase transaction in a retail store associated with said retail store computer system;

debiting, in said retail store computer system, said consumer account by the amount of said purchase transaction;

determining, in said retail store computer system, conditions for future credits associated with said CID;

storing, in said retail store computer system, said conditions in an account associated with said CID;

crediting, in said retail store computer system, said consumer account, when said conditions are satisfied;

selling said card by said third party to a consumer at a card sale price; and

crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account.

2.   The method of claim 1 wherein said card is sold to a consumer as a gift card defining a right to specified credit in a specified store.

3.   The method of claim 1 wherein said card is one of a plurality of store cards batch activated and postal mailed to consumers' postal addresses.

4.   The method of claim 1 further comprising storing product purchase history for products purchased in association with said CID.

5.   The method of claim 1 wherein said conditions depend upon a product purchase history

of said customer stored in association with said CID meeting criteria.

6. The method of claim 5 wherein said criteria are transmitted from a manufacturer to a central computer storing product purchase history data associated with CIDs from a plurality of retail stores and retail store companies.

7. (Canceled).

8. A computer system, comprising:

structure for storing a CID on a card;

structure for activating, in a computer system of a third party, a consumer account associated with said card;

structure for providing, in said computer system of said third party, said consumer account with an initial credit;

structure for identifying, in a retail store computer system, said CID in a purchase transaction in a retail store associated with said retail store computer system;

structure for debiting, in said retail store computer system, said consumer account by the amount of said purchase transaction;

structure for determining, in said retail store computer system, conditions for future credits associated with said CID;

structure for storing, in said retail store computer system, said conditions in an account associated with said CID;

structure for crediting, in said retail store computer system, said consumer account, costs of items purchased when said conditions are satisfied;

structure for selling said card by said third party to a consumer at a card sale price; and

structure for crediting, in said computer system of said third party, a retail store account of said retail store by an amount less than said initial credit when said computer system of said third party activates said account.

9. The system of claim 8 wherein said card is a gift card defining a right to specified credit in a specified store.

10. The system of claim 8 wherein said card is one of a plurality of store cards batch

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activated, and means for addressing said cards to consumers' postal addresses.

11. The system of claim 8 further comprising means for storing product purchase history for products purchased in association with said CID.

12. The system of claim 8 wherein said conditions depend upon a product purchase history of said customer stored in association with said CID meeting criteria, said system further storing said criteria.

13. The system of claim 12 further comprising structure for transmitting said criteria from a manufacturer to a central computer, said central computer storing product purchase history data associated with CIDs from a plurality of retail stores and retail store companies.

14. (Canceled).

15. The method of claim 1 wherein said card sale price is less than said initial credit.

16. The method of claim 1 further comprising, after said activating, transmitting from said computer system of said third party to said retail store computer system a signal indicating that said consumer account has been activated.

17. The method of claim 1 further comprising transferring funds totaling an amount that is less than said card sale price from said third party to said retail store.

18. The system of claim 8 wherein said card sale price is less than said initial credit.

19. The system of claim 8 further comprising structure for, after said activating, transmitting, from said computer system of said third party to said retail store computer system a signal indicating that said consumer account has been activated.

20. The system of claim 8 further comprising structure for transferring funds totaling an amount that is less than said card sale price from said third party to said retail store.

APPENDIX 2 - EVIDENCE APPENDIX

There is no applicable evidence.

APPENDIX 3 - RELATED PROCEEDINGS APPENDIX

There are no related proceedings.

BTM/ran

Printed: January 25, 2008 (12:28pm)

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